

## MODIFYING A CHILD SUPPORT ORDER

Child support orders can be changed by the court or DCSE. Until it is modified, parents must follow the order as written. The parents may not alter, change, or ignore any provision. They may not make their own agreement and replace the order with it. Only the court, or DCSE, if the order is an administrative order, can modify a child support order. DCSE may not modify a court order.

Either parent can ask the court to make a change by filing a motion. The court can change the amount of support, allow for income withholding to pay the support, or change which parent can claim the child as a tax exemption. To change the amount of support, either parent or DCSE may file a “Motion to Review.” While some “positive” voluntary acts, such as either parent getting a better paying job, can serve as a basis for an increase in child support; “negative” voluntary acts, such as quitting a job, being imprisoned, or having subsequent children with another person, cannot serve as a basis for either an increase or decrease. If the court finds that a material change of circumstances has occurred, it will calculate the child support guidelines to see if the amount of child support changes. **The effective date of any modification is most often the date the motion was served on the other party.** If one party is unhappy with the judge’s decision, a motion to rehear the matter can be filed or the decision can be appealed to a higher court.

All orders, either court or DCSE, are to have an immediate wage withholding unless the parents agree in writing to other arrangements or the court decides otherwise. Income withholding takes money from the noncustodial parent’s paycheck to pay his or her child support. An employer must honor an income withholding order; however, the responsibility of ensuring that the correct amount of child support is being paid on time to the right party (the custodial parent or DCSE, as ordered) always remains with the noncustodial and is not transferred to the employer or someone else. The employer may charge the employee \$5 per withholding to handle the administrative costs of complying with the order. If the income withholding does not meet all of a noncustodial parent’s child support obligations, he or she will need to pay the difference. Amounts not covered by an income withholding order are not forgiven or waived.

A court may also modify a child support order by changing which parent may claim the child for tax purposes. Even if the parties have previously agreed upon who would claim the child for tax purposes, the court can allot the exemption on motion of either party. Normally the court will assign the tax deduction to the party that provides the majority of the support, which is not necessarily the party that pays child support. Additionally, if the court changes the tax allocation, it will often re-calculate the child support.